

REMARKS

Upon entry of the present amendment, claims 1 and 7 will have been amended to more clearly define features of Applicant's invention. Accordingly, as a result of the present amendment, claims 1 and 3-11 will remain pending herein.

In view of the herein contain amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the claims pending in the present application, in due course. Such action is respectfully requested and is now believed to be appropriate and proper.

In the outstanding Official Action, the Examiner rejected claims 1, 3, 4, 7, 9 and 10 under 35 U.S.C. 102(e) as being anticipated by MUTZE (U.S. Patent No. 6,072,529). For reasons as will be set forth herein below, Applicant respectfully traverses the above rejection.

In the outstanding Official Action, the Examiner indicated claims 5 and 6 as being objected to for being depend upon a rejected-base claim. The Examiner further indicated that these claims would be allowable if rewritten in independent form including all the limitations of the base claim and the intervening claims.

The Examiner also indicated that claims 8 and 11 are allowed. Applicant notes with appreciation the Examiner's indication of allowable subject matter with regard to claims 5, 6, 8 and 11, but respectfully declines to rewrite 5 and 6 into independent form at the present time in view of the basis for patentability of these claims as will be set forth hereinbelow.

As noted above, the Examiner rejected claims 1, 3, 4, 7, 9 and 10 under 35 U.S.C. 102(e) as being anticipated by MUTZE. Applicant traverses the above rejection and respectfully submits that MUTZE does not disclose the combination of features recited at least in Applicant's 1 and 7. In this regard, Applicant notes that claim 1 now recites a digital camera including a photographic lens and image pick up element and a tilting/switching mechanism. Particular, the "tilting/switching mechanism" is recited to enable concurrent compound movement of the image pickup element relative to the optical axis in at least two orthogonal planes such that the sensitive surface rotates about the intersection point. Similarly, claim 7 recites a digital camera having a photographic lens and an image-pickup device as well as a tilting/swinging mechanism. The tilting/swinging mechanism is recited to be configured to at least one of tilt and swing a sensitive surface of the image pickup element by concurrent compound movement in at least two orthogonal planes, relative to the optical axis. Further, the tilting/swinging mechanism is recited to enable at least one of tilting and swinging of the sensitive surface relative to the point at which the sensitive surface intersects the optical axis.

It is respectfully submitted that the combinations of features recited in each of claims 1 and 7 are not disclosed nor rendered obvious by MUTZE.

In this regard, Applicant notes that in the Examiner's statement of the rejection, he has asserted that MUTZE discloses a tilting/swinging mechanism comprising element 6 which is a sensor mount and which can swing about axis  $a_x$  or  $a_y$  and that enables movement of the image pickup device relative to the optical axis in at least two orthogonal planes such that the sensitive surface rotates about the intersection point.

While MUTZE does in fact disclose movement of the sensitive surface about the  $a_x$  axis and about the  $a_y$  axis, it nevertheless cannot provide the concurrent compound motion recited in each of Applicant's claims. Each of the movements disclosed in MUTZE is independent of the others and thus each must be individually actuated. MUTZE is incapable of providing concurrent compound motion of the sensitive surface as recited in at least two orthogonal planes as recited in each of claims 1 and 7. Accordingly, it is respectfully submitted that claims 1 and 7 are clearly patentable over the disclosure of MUTZE under 35 U.S.C. 102. Moreover, there is no basis nor motivation based upon the prior art of record to modify MUTZE in order to provide the type of motion recited in Applicant's 1 and 7. Accordingly, claims 1 and 7 are clearly patentable over the MUTZE reference relied upon by the Examiner.

Applicant notes that the status of the present application is after final rejection, and an Applicant is not entitled to amend an application once a final rejection is issued. Nevertheless, Applicant respectfully submits that the amendments to claims 1 and 7 are appropriate and proper and should thus be entered.

In this regard, Applicant notes that the MUTZE reference was first relied upon by the Examiner in the outstanding Final Official Action. Accordingly, Applicant has not been afforded a chance to respond thereto and thus could not have previously submitted the present amendment. Additionally, Applicant respectfully submits that the present amendment does not raise any new issues requiring further consideration or search but merely more clearly defines the tilting and swinging movement recited in Applicant's claims.

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Accordingly, Applicant respectfully requests entry of the present amendment as well as reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the claims in the present application, in due course.

SUMMARY AND CONCLUSION

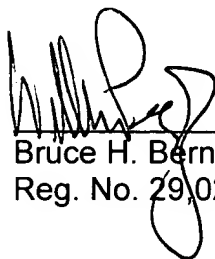
Applicant has made a sincere effort to place the present application in condition of allowance and believes that he has now do so. Applicant has amended claims 1 and 7 and has explained why entry of these amendments is appropriate and proper although the status of the present application is at the final rejection period. Applicant has further discussed the disclosure of the reference relied upon and has contrasted the same with the recitations of Applicant's claims. Applicant has pointed out the significant and substantial shortcomings of the reference with respect to the features of Applicant's invention. Applicant has thus provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully requests an indication to such effect in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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If the Examiner has any questions concerning this amendment or the present application, Applicant respectfully invites the Examiner to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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